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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
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9 UNITED STATES OF AMERICA,  
10 Plaintiff,  
11 v.  
12 WAYNE D. McDUFFIE,  
13 Defendant.

14 NO. CR-08-102-RHW  
15

16 **ORDER DENYING DEFENDANT'S  
17 MOTION FOR RECONSIDERATION**

18 Before the Court is Defendant's Motion for Reconsideration (Ct. Rec. 158). This  
19 motion was heard on an expedited basis without oral argument. Defendant argues that  
20 the Court committed clear error in finding that a search warrant for Defendant's  
21 residence was supported by probable cause (Ct. Rec. 157). In the challenged order, the  
22 Court did not separately analyze the issue but incorporated the reasoning of a previous  
23 order (Ct. Rec. 65). As noted in that order, the affidavit supporting the search warrant  
24 reports that when Defendant was arrested on November 30, 2007, officers found a drug  
25 scale and small quantities of crack cocaine and marijuana. The affidavit also reports that  
26 based on this evidence a warrant was issued for Defendant's arrest, for possession of  
27 crack cocaine. The affidavit further reports that officers found crack cocaine, wrapped  
28 in plastic, in two separate locations in Defendant's vehicle on June 13, 2008. Finally,  
the affidavit contains numerous pieces of information suggesting that Defendant resided  
at the apartment that was the subject of the search warrant. These facts provide probable  
cause to believe that crack cocaine and the other items listed in the warrant would be  
found in Defendant's residence, and that Defendant in fact resided at the apartment in  
question. *See United States v. Pitts*, 6 F.3d 1366, 1369 (9th Cir. 1993). Therefore, the

**ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION \* 1**

1 Court finds no clear error in its order denying Defendant's motion to suppress.

2 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion for  
3 Reconsideration (Ct. Rec. 158) is **DENIED**.

4 **IT IS SO ORDERED.** The District Court Executive is hereby directed to enter  
5 this Order and furnish copies to counsel.

6 **DATED** this 15<sup>th</sup> day of July, 2009.

7 *S/ Robert H. Whaley*  
8 ROBERT H. WHALEY  
9 Senior United States District Judge

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